

AMENDED IN ASSEMBLY MARCH 24, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1826

Introduced by Assembly Member Chesbro

February 18, 2014

An act to ~~amend Section 40003 of the Public Resources Code, relating to waste management~~ *add Chapter 12.9 (commencing with Section 42649.8) to Part 3 of Division 30 of the Public Resources Code, relating to solid waste.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1826, as amended, Chesbro. ~~Integrated Waste Management Act of 1989. Solid waste: organic waste.~~

Existing law, the ~~California Beverage Container Recycling and Litter Reduction Act~~, requires a beverage distributor to pay a redemption payment in a specified amount for every beverage container sold or offered for sale in the state to the Department of Resources Recycling and Recovery, for deposit in the ~~California Beverage Container Recycling Fund~~.

The

(1) *The California Integrated Waste Management Act of 1989*, which is administered by the Department of Resources Recycling and Recovery, establishes an integrated waste management program that requires each county and city and county to prepare and submit to the Department of Resources Recycling and Recovery a countywide integrated waste management plan. The act ~~also provides for the regulation of solid waste disposal and solid waste facilities. Existing law provides that nothing in the act abrogates, limits, or otherwise affects the duties of the former Department of Conservation under the~~

~~California Beverage Container Recycling and Litter Reduction Act~~, requires a business, which is defined as a commercial or public entity, that generates more than 4 cubic yards of commercial solid waste per week or is a multifamily residential dwelling of 5 units or more, to arrange for recycling services. Existing law also requires jurisdictions to implement a commercial solid waste recycling program meeting specified elements.

~~This bill would replace this obsolete reference to the Department of Conservation with a reference to the Department of Resources Recycling and Recovery.~~

This bill would require a business that generates a specified amount of organic waste per week to arrange for recycling services for that organic waste in a specified manner. The bill would decrease the amount of organic waste under which a business would be subject to those requirements from 8 cubic yards or more during 2016 to 4 cubic yards during 2017 and 2018 and to one cubic yard or more on and after January 1, 2019.

This bill would require a business, when arranging for gardening or landscaping services, to require the organic waste generated by those services to comply with the requirements of this act.

This bill would require each jurisdiction, on and after January 1, 2016, to implement an organic waste recycling program to divert organic waste from the businesses subject to this act, thereby imposing a state-mandated local program by imposing new duties on local government agencies. The bill would require each jurisdiction to report to the department on its progress in implementing the organic waste recycling program, and the department would be required to review whether a jurisdiction is in compliance with this act.

This bill would authorize a local government agency to charge and collect a fee from an organic waste generator to recover the local government agency's costs incurred in complying with this act.

This bill would require the department to reduce barriers to siting and encourage the continued viability of the state's organic waste processing and recycling infrastructure, in partnership with the California Environmental Protection Agency and other specified state and regional agencies. The bill also would require the department to cooperate with local jurisdictions and industry to provide assistance and incentives for increasing the feasibility of organic waste recycling.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.

Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 12.9 (commencing with Section 42649.8)
2 is added to Part 3 of Division 30 of the Public Resources Code,
3 to read:

4
5 CHAPTER 12.9. RECYCLING OF ORGANIC WASTE

6
7 42649.8. For purposes of this chapter, the following terms
8 shall apply:

9 (a) "Business" means a commercial or public entity, including,
10 but not limited to, a firm, partnership, proprietorship, joint stock
11 company, corporation, or association that is organized as a
12 for-profit or nonprofit entity, or a multifamily residential dwelling.

13 (b) "Commercial waste generator" means a business subject
14 to subdivision (a) of Section 42649.2.

15 (c) "Organic waste" includes, but is not limited to, food waste,
16 green waste, landscape and pruning waste, and wood waste.

17 (d) "Organic waste generator" means a business subject to
18 subdivision (a) of Section 42649.81.

19 (e) "Self-hauler" means a business that hauls its own waste
20 rather than contracting for that service.

21 42649.81. (a) (1) On and after January 1, 2016, a business
22 that generates eight cubic yards or more of organic waste per
23 week shall arrange for recycling services specifically for organic
24 waste in the manner specified in subdivision (b).

25 (2) On and after January 1, 2017, a business that generates
26 four cubic yards or more of organic waste per week shall arrange
27 for recycling services specifically for organic waste in the manner
28 specified in subdivision (b).

29 (3) On and after January 1, 2019, a business that generates at
30 least one cubic yard of organic waste shall arrange for recycling

1 *services specifically for organic waste in the manner specified in*
2 *subdivision (b).*

3 *(b) A business subject to subdivision (a) shall take at least one*
4 *of the following actions:*

5 *(1) Source separate organic waste from other solid waste and*
6 *subscribe to a basic level of organic waste recycling service that*
7 *includes collection, self-hauling, or other arrangements for the*
8 *collection and recycling of the organic waste, including managing*
9 *it onsite or at another site owned and managed by the generator.*

10 *(2) Subscribe to an organic waste recycling service that may*
11 *include mixed waste processing that specifically recycles organic*
12 *waste.*

13 *(c) A business that is a property owner may require a lessee or*
14 *tenant of that property to source separate their organic waste to*
15 *aid in compliance with this section.*

16 *(d) A business generating organic waste shall arrange for the*
17 *recycling services required by this section in a manner that is*
18 *consistent with state and local laws and requirements, including*
19 *a local ordinance or agreement, applicable to the collection,*
20 *handling, or recycling of solid and organic waste.*

21 *(e) When arranging for gardening or landscaping services, a*
22 *business subject to this section shall require the organic waste*
23 *generated by those services to be managed in compliance with this*
24 *chapter.*

25 *(f) (1) A multifamily residential dwelling that consists of fewer*
26 *than five units is not a business for purposes of this chapter.*

27 *(2) For purposes of determining whether a business that is a*
28 *multifamily dwelling is required to comply with this section, the*
29 *food waste that is generated by the residents of the multifamily*
30 *dwelling shall not be included in determining the amount of organic*
31 *waste generated by that business and that food waste also shall*
32 *not be subject to the requirements of this section.*

33 *42649.82. (a) In addition to the requirements of Section*
34 *42649.3, on and after January 1, 2016, each jurisdiction shall*
35 *implement an organic waste recycling program that is appropriate*
36 *for that jurisdiction and designed specifically to divert organic*
37 *waste from businesses subject to Section 42649.81, whether or not*
38 *the jurisdiction has met the requirements of Section 41780.*

39 *(b) If a jurisdiction as of January 1, 2016, has in place an*
40 *organic waste recycling program that meets the requirements of*

1 *this section, it is not required to implement a new or expanded*
2 *organic waste recycling program.*

3 *(c) The organic waste recycling program required by this section*
4 *shall be directed at organic waste generators and may include,*
5 *but is not limited to, one or more of the following:*

6 *(1) Implementing a mandatory commercial organic waste*
7 *recycling policy or ordinance that addresses organic waste*
8 *recycling.*

9 *(2) Requiring a mandatory commercial organic waste recycling*
10 *program through a franchise contract or agreement.*

11 *(3) Requiring organic waste to go through a source separated*
12 *or mixed processing system that diverts material from disposal.*

13 *(4) Providing exemptions, on a case-by-case basis, deemed*
14 *appropriate by the jurisdiction for reasons including, but not*
15 *limited to, zoning requirements, lack of sufficient space in*
16 *multifamily complexes or businesses to provide additional organic*
17 *material recycling bins, nongeneration of organic materials, or*
18 *the current implementation by a business of actions that result in*
19 *the recycling of a significant portion of its organic waste.*

20 *(d) (1) The organic waste recycling program shall include the*
21 *education of, outreach to, and monitoring of businesses. A*
22 *jurisdiction shall notify a business if the business is not in*
23 *compliance with Section 42649.81.*

24 *(2) The organic waste recycling program may include*
25 *enforcement provisions that are consistent with a jurisdiction's*
26 *authority, including a structure for fines and penalties.*

27 *(3) The commercial organic waste recycling program may*
28 *include certification requirements for self-haulers.*

29 *(e) (1) Each jurisdiction shall provide the department with*
30 *information on the number of regulated businesses that generate*
31 *organic waste and, if available, the number that are recycling*
32 *organic waste. The jurisdiction shall include this information as*
33 *part of the annual report required pursuant to Section 41821.*

34 *(2) On and after August 1, 2017, in addition to the information*
35 *required by paragraph (1), each jurisdiction shall report to the*
36 *department on the progress achieved in implementing its organic*
37 *waste recycling program, including education, outreach,*
38 *identification, and monitoring, on its rationale for allowing*
39 *exemptions, and, if applicable, on enforcement efforts. The*

1 *jurisdiction shall include this information as part of the annual*
2 *report required pursuant to Section 41821.*

3 *(f) (1) The department shall review a jurisdiction's compliance*
4 *with this section as part of the department's review required by*
5 *Section 41825.*

6 *(2) The department also may review whether a jurisdiction is*
7 *in compliance with this section at any time that the department*
8 *receives information that a jurisdiction has not implemented, or*
9 *is not making a good faith effort to implement, an organic waste*
10 *recycling program.*

11 *(g) During a review pursuant to subdivision (f), the department*
12 *shall determine whether the jurisdiction has made a good faith*
13 *effort to implement its selected organic waste recycling program.*
14 *For purposes of this section, "good faith effort" means all*
15 *reasonable and feasible efforts by a jurisdiction to implement its*
16 *organic waste recycling program. During its review, the*
17 *department may include, but is not limited to, consideration of the*
18 *following factors in its evaluation of a jurisdiction's good faith*
19 *effort:*

20 *(1) The extent to which businesses have complied with Section*
21 *42649.81, including information on the amount of disposal that is*
22 *being diverted from the businesses, if available, and on the number*
23 *of businesses that are complying with Section 42649.81.*

24 *(2) The recovery rate of the organic waste from the material*
25 *recovery facilities that are utilized by the businesses, all*
26 *information, methods, and calculations, and any additional*
27 *performance data, as requested by the department from the*
28 *material recovery facilities pursuant to Section 18809.4 of Title*
29 *14 of the California Code of Regulations.*

30 *(3) The extent to which the jurisdiction is conducting education*
31 *and outreach to businesses.*

32 *(4) The extent to which the jurisdiction is monitoring businesses*
33 *and notifying those businesses that are not in compliance.*

34 *(5) The appropriateness of exemptions allowed by the*
35 *jurisdiction.*

36 *(6) The availability of markets for collected organic waste*
37 *recyclables.*

38 *(7) Budgetary constraints.*

39 *(8) In the case of a rural jurisdiction, the effects of small*
40 *geographic size, low population density, or distance to markets.*

1 42649.83. (a) If a jurisdiction adds or expands an organic
2 waste recycling program to meet the requirements of Section
3 42649.82, the jurisdiction shall not be required to revise its source
4 reduction and recycling element or obtain the department's
5 approval pursuant to Article 1 (commencing with Section 41800)
6 of Chapter 7 of Part 2.

7 (b) If an addition or expansion of a jurisdiction's organic waste
8 recycling program is necessary, the jurisdiction shall include this
9 information in the annual report required pursuant to Section
10 41821.

11 42649.84. (a) This chapter does not limit the authority of a
12 local government agency to adopt, implement, or enforce a local
13 organic waste recycling requirement that is more stringent or
14 comprehensive than the requirements of this chapter.

15 (b) This chapter does not modify, limit, or abrogate in any
16 manner any of the following:

17 (1) A franchise granted or extended by a city, county, city and
18 county, or other local government agency.

19 (2) A contract, license, or permit to collect solid waste
20 previously granted or extended by a city, county, city or county,
21 or other local government agency.

22 (3) The existing right of a business to sell or donate its
23 recyclable organic waste materials.

24 42649.85. A local government agency may charge and collect
25 a fee from an organic waste generator to recover the local
26 government agency's costs incurred in complying with this chapter.

27 42649.86. (a) The department shall reduce barriers to siting
28 and encourage the continued viability of the state's organic waste
29 processing and recycling infrastructure, in partnership with the
30 California Environmental Protection Agency and other state and
31 regional agencies. These other state and regional agencies shall
32 include, but are not limited to, the State Air Resources Board, the
33 State Energy Resources Conservation and Development
34 Commission, the Public Utilities Commission, the Department of
35 Food and Agriculture, the State Water Resources Control Board,
36 California regional water quality control boards, and air pollution
37 control and air quality management districts.

38 (b) The department shall cooperate with local government
39 agencies and industry to provide assistance and incentives for
40 increasing the feasibility of organic recycling by promoting

1 *processing opportunities and the development of new infrastructure*
2 *of sufficient capacity to meet the needs of generators, and*
3 *developing sufficient end-use markets throughout the state for the*
4 *quantity of organic waste required to be diverted.*

5 *SEC. 2. No reimbursement is required by this act pursuant to*
6 *Section 6 of Article XIII B of the California Constitution because*
7 *a local agency or school district has the authority to levy service*
8 *charges, fees, or assessments sufficient to pay for the program or*
9 *level of service mandated by this act, within the meaning of Section*
10 *17556 of the Government Code.*

11 ~~SECTION 1. Section 40003 of the Public Resources Code is~~
12 ~~amended to read:~~

13 ~~40003. Nothing in this division abrogates, limits, or otherwise~~
14 ~~affects the duties of the department under the California Beverage~~
15 ~~Container Recycling and Litter Reduction Act (Division 12.1~~
16 ~~(commencing with Section 14500)).~~